

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 830

Introduced by Coash, 27; Hansen, 42; Lautenbaugh, 18; Louden, 49;
Schilz, 47; Sullivan, 41.

Read first time January 08, 2010

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to insurance; to adopt the Tourism Insurance
- 2 Act; and to provide an operative date.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as
2 the Tourism Insurance Act.

3 Sec. 2. For purposes of the Tourism Insurance Act:

4 (1) Fee means the consideration assessed or collected for
5 an invitation to enter or use property for recreation or tourism
6 activities;

7 (2) Gross negligence means the absence of even slight
8 care in the performance of a duty involving an unreasonable risk of
9 harm. It is great or excessive negligence in a very high degree;

10 (3) Liability insurance means liability insurance
11 providing a minimum coverage of not less than one million dollars
12 written by an insurance company authorized to do business in this
13 state or obtained through a licensed surplus lines producer;

14 (4) Property means land, roads, water, watercourses,
15 private ways, and buildings, structures, and machinery or equipment
16 thereon;

17 (5) Recreation or tourism activities include, but are
18 not limited to, outfitting, hunting, fishing, horseback riding,
19 swimming, boating, canoeing, kayaking, farm and ranch tours
20 and activities, camping, picnicking, hiking, bicycling, pleasure
21 driving, nature study, waterskiing, winter sports, and visiting,
22 viewing, or enjoying historical, archaeological, scenic, or
23 scientific sites, or otherwise using property for other recreation
24 or tourism activities; and

25 (6) Small tourism business means a private individual or

1 a private entity that is a title holder, tenant, lessee, occupant,
2 or is otherwise in control of property used for a tourism business
3 that charges fees for providing recreation or tourism activities
4 and has average annual receipts of such fees, averaged over the
5 previous three annual accounting periods of the business, of not
6 more than five million dollars.

7 Sec. 3. The intent of the Tourism Insurance Act is to
8 encourage small tourism businesses to make property available
9 to persons for recreation or tourism activities by limiting
10 small tourism businesses' liability toward persons entering or
11 using the property for recreation or tourism activities and
12 to encourage small tourism businesses to acquire and maintain
13 liability insurance.

14 Sec. 4. Except as provided in sections 6 and 7 of
15 this act, a small tourism business owes no duty of care to keep
16 property safe for entry or use by others for recreation or tourism
17 activities or to give any warning of a dangerous condition, use,
18 structure, or activity on such property to persons entering or
19 using such property for recreation or tourism activities.

20 Sec. 5. Except as provided in section 7 of this act, a
21 small tourism business which either directly or indirectly invites
22 or permits persons to enter or use such property for recreation
23 or tourism activities does not thereby (1) extend any assurance
24 that the property is safe for any purpose, (2) confer upon such
25 persons the legal status of an invitee or licensee to whom a

1 duty of care is owed, or (3) assume responsibility for or incur
2 liability for any injury to persons or property caused by an act
3 or omission of persons entering such property for recreation or
4 tourism activities.

5 Sec. 6. A small tourism business shall post and maintain
6 signs at the entrance to the property where the signs can be
7 readily seen by persons entering or using the property for
8 recreation or tourism activities. The signs shall have letters
9 a minimum of one inch in height. The signs shall have the following
10 notice:

11 WARNING

12 Under Nebraska law, there is no liability for injury
13 or death of a person participating in a recreation or tourism
14 activity conducted on this property if such injury or death results
15 from the ordinary negligence of the owner and limited liability
16 if such injury or death results from the gross negligence of
17 the small tourism business. There are risks associated with these
18 activities that include, among others, risks of injury inherent
19 in the location, equipment, or animals as well as the risk of
20 you contributing to your own injury or death. You assume the risk
21 of participating in any recreation or tourism activity on this
22 property.

23 Sec. 7. (1) Except as provided in subsection (2) of this
24 section, the Tourism Insurance Act does not limit the liability
25 of a small tourism business which otherwise exists for intentional

1 conduct, gross negligence, or willful or malicious failure to guard
 2 or warn against a dangerous condition, use, structure, or activity
 3 on the small tourism business's property to persons entering or
 4 using such property for recreation or tourism activities.

5 (2) The liability of a small tourism business when the
 6 gross negligence of the small tourism business is the cause of
 7 injury or death to a person entering or using property of the
 8 small tourism business for recreation or tourism activities is
 9 limited to (a) five hundred thousand dollars for one person per
 10 occurrence or (b) three million dollars for two or more persons
 11 per occurrence. The amount recoverable from an insurer under a
 12 liability insurance policy covering a small tourism business in
 13 a situation described in this subsection shall not exceed the
 14 limitations in this subsection.

15 (3) The liability limitations found in sections 4 and 5
 16 of this act and subsection (2) of this section shall not apply
 17 to a small tourism business unless the small tourism business (a)
 18 has liability insurance on the date of the injury or death of the
 19 person and (b) had proof of liability insurance posted on such date
 20 in a highly visible area where such posting could be readily seen
 21 by persons entering or using the property for recreation or tourism
 22 activities.

23 Sec. 8. Nothing in the Tourism Insurance Act creates
 24 a duty of care or ground of liability for injury to person or
 25 property.

1 Sec. 9. Nothing in the Tourism Insurance Act limits in
2 any way the obligation of a person entering or using the property
3 of another for recreation or tourism activities to exercise due
4 care in his or her use of such property in his or her activities
5 thereon.

6 Sec. 10. This act becomes operative on January 1, 2011.